UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *4/9/2007*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1.   **Claims 1-9, 14, 15, 18-23 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Jacobus et al., (U.S. Pub. 2005/0209891), in view of Kehr, (U.S.

2003/0036683).

2.   As per claim 1, Jacobus discloses an apparatus comprising:

(a)   a communication processor for acquiring medical parameters associated with a

patient including patient laboratory results, (Jacobus, Abstract; Figs. 12, 14, ¶18, 51, 55)

(medical records, clinical observations and medical imagery are considered to be

medical parameters including patient laboratory results);

(b)   a processor for collating acquired medical parameters for storage in a database,

and allocating visual attributes to the acquired medical parameters for identifying at

least one of (a) newly acquired laboratory test results and (b) patients associated with a

particular care unit, (Jacobus, Abstract; Figs. 7, 13, 15, ¶ 263, 264)(disclosing

organizing and aggregating newly acquired test results and other medical parameter

including laboratory test data received from remote instruments and other particular

patient data, said organizing and aggregating being a form of collating and allocating

visual attributes to the acquired medical parameters, and, disclosing access of specific

records and instruments by time/date and also billing data that includes date

information. Any field name describing a database file is considered to be a visual

attribute to the extent described in Applicant's specification); and

(c)   a device for searching said database of acquired medical parameters to find

specific laboratory test results based on one or more of (a) a text string identifying a

portion of a lab test name, (b) a patient identifier, and (c) a date, for display of the

acquired medical parameters and allocated visual attributes in a desired order,

(Jacobus, Fig. 10-14; Abstract; ¶18, 51, 55, 56)(disclosing retrieval and display of

specific records based on names and authorization codes).

Jacobus fails to disclose an image processor for generating a display image

including a first data window for displaying the specified laboratory results and a second

navigation window displaying a date field and a time field for individually received

laboratory messages and allocated visual attributes are displayed in said navigation

window adjacent to individual data and time fields and identifying newly acquired

laboratory test results. However, such an image processor is well known in the art as

evidenced by Kehr, (Kehr, Figs. 6-8).

It would be obvious to one of ordinary skill in the art at the time of the invention to

combine Jacobus and Kehr. The motivation would have been to use a real-time, time-

and-event driven patient monitoring system to assist patients and their caregivers by

converting a complex treatment plan into a series of simple steps, (Kehr, Abstract).

3.   As per claim 2, Jacobus discloses an apparatus wherein said network is at least

one of an internet or intra-net compatible network, (Jacobus, Abstract; ¶18).

        The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

4.   As per claim 3, Jacobus discloses an apparatus wherein said collation processor

orders said acquired patient laboratory results by criteria including at least one of (a)

test type, (b) date, and (c) patient, (Jacobus, Abstract; Figs. 2, 10, 12, 13) (user

assesses "orders" data using criteria such as: data "test" type, patient, and date).

        The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

5.   As per claim 4, Jacobus discloses an apparatus wherein said searching is based

on additional criteria including at least one of (a) patient name, (b) caregiver identifier,

(c) text identifying a diagnosis, and (d) text identifying a procedure, (Jacobus, Abstract;

Figs. 2, 10, 12, 13) (user assesses "searches" data using criteria such as: patient and/or

data type. Data type is considered to include text identifying a diagnosis or procedure).

        The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

6.   As per claim 5, Jacobus discloses an apparatus wherein said communications

processor acquires said test results from said plurality of sources using network

protocols including one or more of (a) ASTM and (b) HL7, (Jacobus, ¶10).

The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

7.   As per claim 6, Jacobus discloses an apparatus wherein said communication

processor continuously acquires said results from one or more of (a) a hospital intranet,

and (b) a patient monitoring system, (Jacobus, Abstract, ¶ 18, 51, 57).

The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

8.   As per claim 7, Jacobus discloses an apparatus wherein said system acquires

and displays other information together with said test results in a composite display

window, said other information including one or more of (a) ventilator status, (b)

diagnosis information, (c) care unit identifier, (d) procedure, (e) caregiver indicator, and

(f) laboratory test results indicator, (Jacobus, Fig. 15, ¶44, 50, 52, 55, 69-315) (providing

a comprehensive list of information acquired and displayed that is considered to include

diagnosis information and care unit identifier. In particular, see ¶¶129-213, detailing

technician and physician features).

The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

9.   As per claim 8, Jacobus discloses an apparatus further comprising a menu

generator for generating a window for displaying said specific test results, (Jacobus,

Fig. 15, ¶44, 50, 52, 55, 69).

        The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

10.   As per claim 9, Jacobus discloses an apparatus wherein said menu generator

comprises an internet browser, (Jacobus, Fig. 15, ¶44, 50, 52, 55, 69).

        The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

11.   As per claim 14, Jacobus discloses an internet compatible method for displaying

medical information derived from a plurality of sources, comprising steps of:

(a)   acquiring medical parameters associated with a patient including patient

laboratory results, (Jacobus, Abstract; ¶18) (medical records, clinical observations and

medical imagery are considered to be medical parameters including patient laboratory

results);

(b)   collating said acquired medical parameters for storage in a database, (Jacobus,

Abstract; ¶18); and

(c)   searching said database of acquired medical parameters to find specific

laboratory test results based on one or more of (a) a text string identifying a portion of a

lab test name, (b) a patient identifier, and (c) a date, for display in a desired order,

(Jacobus, Abstract; Fig. 10; ¶18),

(d)   allocating visual attributes to the acquired medical parameters for identifying at

least one of (a) newly acquired laboratory test results and (b) patients associated with a

particular care unit, (Jacobus, Abstract; Figs. 7, 15, ¶ 263, 264)(disclosing organizing

and aggregating newly acquired test results and other medical parameter including

laboratory test data received from remote instruments and other particular patient data,

said organizing and aggregating being a form of collating and allocating visual attributes

to the acquired medical parameters), and

(e)   Jacobus fails to disclose generating a display image including a first data window

for displaying the specified laboratory results and a second navigation window

displaying a date field and a time field for individually received laboratory messages and

allocated visual attributes are displayed in said navigation window adjacent to individual

data and time fields and identifying newly acquired laboratory test results. However,

such an image processor is well known in the art as evidenced by Kehr, (Kehr, Figs. 6-

8).

The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

12.   As per claim 15, Jacobus discloses a method further comprising the step of

generating a window for displaying said laboratory test results, (Jacobus, Fig. 15, ¶44,

50, 52, 55, 69).

The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

13.   As per claim 18, Jacobus discloses an apparatus wherein further comprising the

step of generating a first navigator window displaying results of a search and a second

window including data representing parameters corresponding to a specific search

result, (Jacobus, Fig. 15, ¶44, 50, 52, 55, 69) (disclosing a first displaying navigator

window results of a search in the form of patient records, and a second window

including data representing parameters corresponding to a specific search result in the

form of an individual record being created or updated).

The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

14.   As per claim 19, Jacobus discloses an apparatus wherein further comprising the

step of generating a display including data representing information associated with

patients meeting predetermined criteria, (Jacobus, Fig. 5, 15, ¶18, 23, 44, 50, 52, 55,

69)(disclosing generating a display with data representing information associated with

patients meeting predetermined criteria, said predetermined criteria being disclosed in

the form of search terms, filter criteria or medical parameters).

The motivation to combine Jacobus and Kehr is as provided in the rejection of claim 1 and incorporated herein by reference.

15.   As per claim 20, Jacobus discloses an apparatus wherein further comprising a display generator for generating a first navigator window displaying results of a search and a second window including data representing parameters corresponding to a specific search result, (Jacobus, Fig. 15, ¶44, 50, 52, 55, 69) (disclosing a first displaying navigator window results of a search in the form of patient records, and a second window including data representing parameters corresponding to a specific search result in the form of an individual record being created or updated).

The motivation to combine Jacobus and Kehr is as provided in the rejection of claim 1 and incorporated herein by reference.

16.   As per claim 21, Jacobus discloses an apparatus wherein said display generator generates a display including data representing information associated with patients meeting predetermined criteria, (Jacobus, Fig. 5, 15, ¶18, 23, 44, 50, 52, 55, 69)(disclosing generating a display with data representing information associated with patients meeting predetermined criteria, said predetermined criteria being disclosed in the form of search terms, filter criteria or medical parameters).

The motivation to combine Jacobus and Kehr is as provided in the rejection of claim 1 and incorporated herein by reference.

17.   As per claims 22 and 23, Kehr discloses a system and method wherein said

image processor generates a component display for displaying medical information for a

plurality of patients; said allocated visual attributes being displayed in said component

display and identifying newly acquired laboratory test results of corresponding patients,

(Kehr, Figs. 6-8)(TestDateTime field identifying newly acquired laboratory test results).

The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

18.   Claims 10-13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Jacobus et al., (U.S. Pub. 2005/0209891), in view of Kehr, (U.S.

2003/0036683), and further in view of Cairnes, (U.S. 6,139,494).

19.   As per claim 10, Jacobus and Kehr fail to expressly disclose a system wherein

said allocated attribute identifies unreviewed lab results. However, Cairnes discloses

such a system, (Cairnes, Abstract; Fig. 6,7,8, col. 8, lines 56-65. col. 9, lines 1-8)

(disclosing attributes for reminders, alerts, and daily-triggered critical agenda. It would

be obvious to one of ordinary skill in the art to modify Cairnes to include an attribute for

determining the status of review of information in view of these attributes. The

motivation would have been to ensure that lab results are timely reviewed.

The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

It would have been obvious to one of ordinary skill in the art at the time of the

invention to add Carnes to the combination of Jacobus and Kehr. The motivation would

have been to alert a personal health advisor if the data exceeded predefined medical

parameters, (Cairnes, Abstract).

20.   As per claim 11 and 13, Jacobus and Kehr fail to expressly disclose an

apparatus wherein wherein said attribute is a predetermined color. However, Cairnes

discloses such an apparatus, (Cairnes, Abstract; Fig. 6,7,8, col. 6, lines 37-col. 7, line

17; col. 8, lines 56; col. 9, lines 1-8). Cairnes fails to expressly disclose the use of a

color attribute. However, Cairnes discloses numerous attributes for display on a user

interface, including: touch screen displays, message lights, and graphical

representations. Examiner considers these display attributes to include colors in such a

manner as they are commonly found in graphs, screens and charts to better convey

information to the viewer.

The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

The motivation to add Cairnes is as provided in the rejection of claim 10 and

incorporated herein by reference.

21.   As per claim 12, Jacobus and Kehr fail to expressly disclose an apparatus

wherein said collation processor allocates an attribute for identifying laboratory test

results that are outside a predetermined range level. However, Cairnes discloses such

a system, (Cairnes, Abstract; Fig. 6,7,8, col. 8, lines 56-col. 9, line 8).

The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

The motivation to add Cairnes is as provided in the rejection of claim 10 and

incorporated herein by reference.

22.   As per claim 16, Jacobus and Kehr fail to expressly disclose a method displaying

an attribute identifying unreviewed test results. However, Cairnes discloses such a

system, (Cairnes, Abstract; Fig. 6,7,8, col. 8, lines 56-65. col. 9, lines 1-8) (disclosing

attributes for reminders, alerts, lab results, and daily-triggered critical agenda. It would

be obvious to one of ordinary skill in the art to modify Cairnes to include an attribute for

determining the status of review of information in view of these attributes. The

motivation would have been to ensure that lab results are timely reviewed.

The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

The motivation to add Cairnes is as provided in the rejection of claim 10 and

incorporated herein by reference.

23.   As per claim 17, Jacobus and Kehr fail to expressly disclose a method further

comprising the step of allocating an attribute for identifying laboratory test results that

are outside a predetermined range level. However, Cairnes discloses such a system,

(Cairnes, Fig. 6,7,8, col. 8, lines 56-col. 9, line 8).

The motivation to combine Jacobus and Kehr is as provided in the rejection of

claim 1 and incorporated herein by reference.

The motivation to add Cairnes is as provided in the rejection of claim 10 and

incorporated herein by reference.

Response to Arguments

Applicant's arguments with respect to claims 1-23 have been considered but are

moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell S. Glass whose telephone number is 571-272-3132. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RSG
7/4/2007

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